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SUBJECT: DOL HOSTS SIXTH U.S.-VIETNAM LABOR DIALOGUE

¶1. (SBU) SUMMARY: Deputy Under Secretary of Labor for International Affairs (DUS) Charlotte Ponticelli hosted the sixth annual labor dialogue with Vietnam's Ministry of Labor, Invalids and Social Affairs (MOLISA) on October 17, 2008, in Washington. MOLISA Vice Minister Nguyen Thanh Hoa led the Vietnamese side. Discussion focused on topics key to freedom of association and the right to collective bargaining, revision of the Vietnamese labor code, and possibilities for cooperation on occupational health and safety and social insurance. Vice Minister Hoa was vague in response to DOL concerns over Vietnam's limits on freedom of association and the rights to collective bargaining. Hoa emphasized that Vietnam's Labor Code is still under revision and that the Ministry of Internal Affairs is responsible for crafting the legal framework for freedom of association. END SUMMARY.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

¶2. (U) Deputy Under Secretary of Labor for International Affairs Charlotte Ponticelli hosted the sixth annual labor dialogue with Vietnam's MOLISA on October 17, 2008, in Washington. MOLISA Vice Minister Nguyen Thanh Hoa led the Vietnamese side. DUS Ponticelli opened the dialogue by praising the August 2008 signing of a four year extension of the Letter of Understanding (LOU) between DOL and MOLISA to continue the labor dialogue process. She emphasized the U.S. interest at this dialogue round to learn the extent of Vietnam's freedom of association and independence of its labor unions. (Note: While neither side discussed Vietnam's Generalized System of Preferences (GSP) application, both delegations were fully aware of the significance of labor issues in that process. End Note.)

¶3. (SBU) Vice Minister Hoa explained that Vietnam's efforts to reform its labor code aim at ensuring a market-oriented approach while complying with international labor standards. He also noted the GVN's interest in addressing worker rights including freedom of association, collective bargaining, and other issues related to workplace safety and social safety net programs. So far, Vietnam has ratified 17 ILO Conventions, including five of the eight Core Conventions. He highlighted the government's June 2008 ratification of Convention 144, which creates a system for tripartite consultation.

¶4. (SBU) Under the current Vietnamese system, said Hoa, MOLISA consults with workers and employees on policy and legal issues. MOLISA is working to improve legal compliance, increase inspections, and ensure that domestic law is compatible with international labor law. All MOLISA legal documents are now posted on the Ministry website for 60 days for review, he added.

¶5. (SBU) On revision of Vietnam's labor code, Hoa explained that the drafting committee includes government, worker, and employer representatives, with the Vietnam General Confederation of Labor (VGCL) serving as the voice of workers. Workers and employers are consulted at all levels,

including through special one day sessions between the Prime Minister and VGCL, and MOLISA and VGCL. NGOs are not on the drafting committee, Hoa acknowledged, but he noted that draft laws are posted on the MOLISA website for 60 days before being forwarded to the National Assembly.

¶6. (SBU) DUS Ponticelli pressed on whether the Vietnamese government would accept unions not linked to VGCL. Hoa replied that Workers can establish trade unions at the local, provincial and central levels, said Hoa, but all are under the VGCL umbrella. Union representatives are elected at all levels. Hoa also noted that the Vietnamese Union of Postal Workers now has an international affiliation. He acknowledged that the Ministry of Internal Affairs was in charge of drafting Vietnam's new freedom of association law, as the law would cover all associations -- not just those related to industrial relations. He could not provide details of the draft law or the status of the draft.

CAPACITY BUILDING, HR DEVELOPMENT

¶7. (SBU) Vietnam's system allows for effective consultations with workers and employers, said Hoa, but suffers from a lack of capacity and a shortage of labor inspectors. Specifically, he said, trade unions are inexperienced in negotiating collective bargaining agreements, and sanctions

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for violations are insufficient.

¶8. (SBU) In reply to DUS Ponticelli's question about MOLISA's plans for developing a workforce for the 21st century, Hoa emphasized that the GVN sees human resource development as the key. The government is implementing a program of large-scale vocational training, with the initial goal of training or re-training 40-50% of the workforce by ¶2010. The GVN is seeking to direct greater resources to improvements in education and training at the central, provincial, and local levels, said Hoa. The percentage of GDP dedicated to education and training is expected to rise from 6.7% in 2008 to 10% in 2009. Private sector resources are also being mobilized for projects such as establishing vocational training centers near industrial zones. The GVN is backing the creation of these training centers by providing land, tax incentives and soft loans for investors and educational credits for trainees.

¶9. (SBU) Hoa added that migrant workers are entitled to union membership, but that enforcement of this is inadequate. He said the Ministry of Foreign Affairs has decreed that Vietnamese embassies must have a Labor Division and be prepared to protect Vietnamese workers overseas. Also, since 2006 laws permit sanctions of recruitment agencies with illegal practices, but enforcement is a problem.

OCCUPATIONAL SAFETY AND HEALTH, SOCIAL INSURANCE

¶10. (SBU) At MOLISA's request, DOL gave a briefing on the USG approach to promoting occupational safety and health. The presentation emphasized the importance of record keeping, inspections, enforcement and compliance, and the different responsibilities of federal and state governments. MOLISA questions focused on what were the most dangerous industries in the U.S., and how OSHA offices are organized at the regional level. Vice Minister Hoa stated that Vietnam has only 300 labor inspectors for approximately 300,000 enterprises. Hoa said that the National Assembly had passed legislation in 2006 on unemployment insurance which becomes effective January 2009, and on voluntary social insurance which became effective in January 2008. MOLISA is interested in how the U.S. enforces employer contributions, said Hoa, and would welcome any information on best practices in this area.

THE WAY FORWARD

¶11. (SBU) In closing, DUS Ponticelli and Vice-Minister Hoa agreed that progress on labor issues was a step by step process, but it was vital to continue moving ahead. Atmospherics had been cordial and friendly throughout. DOL and MOLISA identified three primary areas for future cooperation: labor code reform, occupational safety and health (OSHA), and social insurance. Cooperation on labor code reform might include, as requested by the MOLISA delegation: (1) A U.S. study tour by the Labor Code Drafting Committee to the U.S.; (2) A joint workshop by U.S. industrial relations experts; and (3) DOL provision of written materials on labor code revision to Vietnam. On OSHA and Social Insurance, DOL offered assistance to include: (1) support in developing database and record keeping; (2) technical exchange and cooperation in establishing and managing a worker's compensation fund; (3) capacity training for officers and inspectors; and (4) exchange of written materials on best practices. DUS Ponticelli noted the lack of funding for DOL to conduct technical cooperation activities but said that both sides should look at innovative ways to conduct exchanges of information, experts and relevant officials, which can be carried out with little or no additional expenses.

¶12. (SBU) DUS Ponticelli and Vice Minister Hoa agreed that the seventh labor dialogue will take place in Vietnam in October 2009 at a date and site to be determined. They also agreed to a progress review of the ongoing bilateral relationship in six months by DVC or in person, either in the U.S. or Vietnam.

¶13. (U) DUS Ponticelli cleared this cable.

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